

REMARKS/ARGUMENTS

Favorable reconsideration of this application in view of above amendments and following discussion is respectfully requested.

Claims 1-67 are pending in this application. Claims 5-7, 14, 16-18, 21-22, 24-28, 31-33, 36, 38, 40-45, 47, 49-53 and 55-59 are withdrawn from consideration. By this Amendment, Claims 1, 27, 30 31, 34-36, 38-41, 49, 66 and 67 are amended; and no claims are added or canceled herewith. It is respectfully submitted that no new matter is added by this Amendment.

In the outstanding Office Action, Claims 30-31, 34-36, 38-40 and 41 were rejected under 35 U.S.C. § 101; Claims 27 and 49 were rejected under 35 U.S.C. § 112; Claims 1-4, 8-13, 19-20, 29-30, 34-35, 37, 46, 48, 54 and 61-66 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 1,947,720 to Laub in view of U.S. Patent No. 4,145,147 to Schuck; Claims 15, 23, 39 and 67 were rejected under 35 U.S.C. § 103(a) as unpatentable over Laub in view of Schuck and further in view of U.S. Patent No. 3,070,102 to McDonald; and Claim 60 was indicated as including allowable subject matter.

With respect to the rejection of the claims under 35 U.S.C. § 101 and 35 U.S.C. § 112, Claims 1, 27, 30 31, 34-36, 38-41, 49, 66 and 67 are amended by the present amendment to clarify the features of the claims. Accordingly, withdrawal of the rejection under 35 U.S.C. § 101 and 35 U.S.C. § 112 is respectfully requested.

With respect to the rejections under 35 U.S.C. § 103(a), those rejections are respectfully traversed. In particular, the applied art does not teach or suggest a reservoir including a first side and a second side, an applicator portion having a second surface secured to an immediately adjacent second side of the reservoir, a membrane breakable in response to an operating action at least during first use of the applicator, the second surface of the applicator portion and the second side of the reservoir have respective areas and said second

surface of the applicator portion and said second side of the reservoir are in contact with each other along substantially all their respective areas, and the membrane forms the second side of the reservoir, as recited in Claim 1 and similarly recited in the remaining independent claims.

In contrast Laub discloses a toothbrush having a container 10 with a paste 12 contained within a hollow portion of the container 10. A membrane 29 is provided at a point between two side walls 27 and 28 of the container 10. When it is desired to extrude the paste through the slot formed in the housing 10, the upper wall of the container is depressed and the membrane 29 is fractured to allow the paste 12 to be squeezed out of the small opening between side walls 27 and 28 into an area between the bristles 25.

Schuck discloses a toothbrush having a cavity 106 for housing toothpaste. The cavity 106 communicates with channel 105 which then dispenses the toothpaste to the bristle portion 104 of the brush. Schuck discusses using a sponge material 120 instead of the bristles.

There is no teaching or suggestion for the features recited in the independent claims. Again, the independent claims recite that a membrane is breakable in response to an operating action at least during first use of the applicator and the membrane forms the second side of the reservoir, and the second surface of the applicator portion and the second side of the reservoir have respective areas and said second surface of the applicator portion and said second side of the reservoir are in contact with each other along substantially all their respective areas. In accordance with one or more examples of the invention, during use, the stored product can move reliably from the reservoir immediately to the applicator portion and then be applied to a desired surface. The features of the claimed invention are not taught or suggested by the applied art and therefore, they cannot provide at least the advantages discussed above.

Further, it is respectfully submitted that only Applicants own disclosure teaches the combined features claimed, particularly the claimed relationship of the applicator portion, reservoir, and membrane. Even the collective teachings of the references fail to render obvious the combined features claimed. For example, due to the narrow linear opening formed by the membrane 29 between side walls 27 and 28 of Laub, an applicator portion as taught by Schuck, when combined with Laub, would be only in contact with the narrow opening. If such a combination were made, the sponge material of Schuck would extend between the flanges 16 and 17 on the container 10 of Laub and therefore the areas of the second surface of the applicator portion and the second side of the reservoir would not be in contact with each other along substantially all their respective areas. Accordingly, it is respectfully submitted that there is no basis in the teachings of either Laub or Schuck to support their applied combination. Certainly, the outstanding Office Action fails to cite to any specific teachings within either reference to support the applied combination. It is respectfully submitted that the combination of Laub with Schuck is the result of hindsight reconstruction in view of the teachings of the present specification, and is improper.

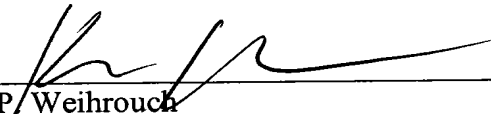
Accordingly, withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) is respectfully requested.

Consequently, for the reasons discussed in detail above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.

Respectfully submitted,

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